

PUBLIC MATTER

FILED

JUL 06 2016

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

1 STATE BAR OF CALIFORNIA
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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

12 In the Matter of:) Case Nos. 15-O-14756, 15-O-15517
13 EMAHN COUNTS,)
14 No. 231368,) NOTICE OF DISCIPLINARY CHARGES
15 A Member of the State Bar.)

NOTICE - FAILURE TO RESPOND!

17 IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE
18 WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT
19 THE STATE BAR COURT TRIAL:

- 20 (1) YOUR DEFAULT WILL BE ENTERED;
- 21 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
22 WILL NOT BE PERMITTED TO PRACTICE LAW;
- 23 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
24 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
25 AND THE DEFAULT IS SET ASIDE, AND;
- 26 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
27 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
28 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Emahn Counts ("respondent") was admitted to the practice of law in the State of
4 California on June 3, 2004, was a member at all times pertinent to these charges, and is currently
5 a member of the State Bar of California.

6 COUNT ONE

7 Case No. 15-O-14756
8 Business and Professions Code section 6106
[Moral Turpitude – Wrongful Taking of Funds]

9 2. On or about December 14, 2013, Respondent unilaterally charged, or caused to be
10 charged, his client David Melamed's MasterCard credit card and collected \$3,300, without
11 Melamed's prior knowledge, authorization and consent. Respondent dishonestly or, with gross
12 negligence, wrongfully took the funds for his own purposes, and thereby committed an act
13 involving moral turpitude, dishonesty or corruption in willful violation of Business and
14 Professions Code section 6106.

15 COUNT TWO

16 Case No. 15-O-14756
17 Business and Professions Code section 6106
[Moral Turpitude – Wrongful Taking of Funds]

18 3. On or about February 10, 2014, Respondent unilaterally charged, or caused to be
19 charged, his client David Melamed's MasterCard credit card and collected \$2,730, without
20 Melamed's prior knowledge, authorization and consent. Respondent dishonestly or, with gross
21 negligence, wrongfully took the funds for his own purposes, and thereby committed an act
22 involving moral turpitude, dishonesty or corruption in willful violation of Business and
23 Professions Code section 6106.

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1 COUNT THREE

2 Case No. 15-O-14756
3 Business and Professions Code section 6106
[Moral Turpitude – Wrongful Taking of Funds]

4 4. On or about March 14, 2014, Respondent unilaterally charged, or caused to be
5 charged, his client David Melamed's MasterCard credit card and collected \$2,560, without
6 Melamed's prior knowledge, authorization and consent. Respondent dishonestly or, with gross
7 negligence, wrongfully took the funds for his own purposes, and thereby committed an act
8 involving moral turpitude, dishonesty or corruption in willful violation of Business and
9 Professions Code section 6106.

10 COUNT FOUR

11 Case No. 15-O-14756
12 Business and Professions Code section 6106
[Moral Turpitude – Breach of Fiduciary Duty]

13 5. On or about July 8, 2013, David Melamed hired Respondent to perform legal
14 services, namely to represent Melamed in a landlord-tenant lawsuit, in the matter entitled *Apple a*
15 *Day v. West L.A. Medical & Skincare et, al.*, Los Angeles County Superior Court case number
16 BC513678. On or about July 30, 2013, Melamed entrusted Respondent with his credit card
17 information to charge his MasterCard credit card for court costs and for any unpaid and
18 outstanding legal fees, conferring a fiduciary duty upon Respondent to safeguard Melamed's
19 credit card information and appropriately charge Melamed's credit card pursuant to Melamed's
20 limited authorization. Between on or about October 16, 2013, and on or about February 2, 2014,
21 Melamed revoked Respondent's authorization to charge the MasterCard credit card
22 approximately six times. At all relevant times, Respondent had notice of Melamed's
23 revocations. Between on or about December 14, 2013 and on or about March 14, 2014,
24 Respondent repeatedly charged, or caused to be charged, Melamed's MasterCard credit card for
25 his legal fees without Melamed's prior knoweldge, authorization and consent. By repeatedly
26 charging, or causing to be charged, Melamed's MasterCard credit card after Melamed's
27 revocations, Respondent breached a fiduciary duty owed to Melamed, and thereby committed an

1 act involving moral turpitude, dishonesty or corruption in willful violation of Business and
2 Professions Code section 6106.

3 COUNT FIVE

4 Case No. 15-O-14756
5 Rules of Professional Conduct, rule 3-110(A)
6 [Failure to Perform with Competence]

6 6. On or about July 8, 2013, David Melamed hired Respondent to perform legal
7 services, namely to represent Melamed in a landlord-tenant lawsuit, in the matter entitled *Apple a*
8 *Day v. West L.A. Medical & Skincare et, al.*, Los Angeles County Superior Court case number
9 BC513678, in which Respondent intentionally, recklessly, or repeatedly failed to perform legal
10 services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A),
11 by:

- 12 a) failing to supervise his non-attorney staff, which resulted in three unauthorized
13 credit card charges to Melamed's MasterCard credit card for Respondent's legal
14 fees between on or about December 14, 2013 and on or about March 14, 2014,
15 b) failing to supervise his non-attorney staff in filing an ex parte motion on or about
16 February 19, 2014 on Melamed's behalf, which included an authorization form
17 with Melamed's credit card information without Melamed's prior knowledge,
18 authorization and consent, and a simulated signature for Melamed that he
19 similarly did not sign or authorize, and
20 c) filing a deficient motion for additional discovery on or about November 8, 2013
21 on Melamed's behalf, which included more than double the allowable requests for
22 interrogatories without the separate statement to justify the discovery request as
23 required by California Rules of Court rule 3.145(a)(2), and which resulted in the
24 imposition of sanctions against Melamed.

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1 COUNT SIX

2 Case No. 15-O-15517
3 Business and Professions Code section 6068(m)
4 [Failure to Inform Client of Significant Development]

5 7. On or about September 2, 2015, Fernando Pereira and Patrica Lopez Pereira hired
6 Respondent to perform legal services, namely to perform legal research and determine the
7 validity of their Mechanic's lien renewal by no later than September 9, 2015. On or about
8 September 9, 2015, Respondent determined that the lien could not be renewed, but failed to
9 inform his clients of this significant development by September 9, 2015, and Respondent thereby
10 failed to keep a client reasonably informed of significant developments in a matter in which
11 Respondent had agreed to provide legal services, in willful violation of Business and Professions
12 Code section 6068(m).

13 NOTICE - INACTIVE ENROLLMENT!

14 YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
15 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
16 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
17 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
18 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
19 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
20 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
21 RECOMMENDED BY THE COURT.

22 NOTICE - COST ASSESSMENT!

23 IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
24 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
25 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
26 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
27 PROFESSIONS CODE SECTION 6086.10.
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Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

25 DATED: July 5, 2016

By: 

Anand Kumar
Senior Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **15-O-14756, 15-O-15517**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017-2515, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

☐

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

☒

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

☐

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").

☐

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*

☒

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article Nos.: **(1) 7196-9008-9111-1008-3268**

at Los Angeles, addressed to: *(see below)*

(2) 7196-9008-9111-1008-3275

☐

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: _____

addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to
		Electronic Address	
(1) Emahn Counts	70 S. Lake Ave., 10 th Fl. Pasadena, CA 91101		
(2) Edward O. Lear	Century Law Group LLP 5200 W. Century Blvd., #345 Los Angeles, CA 90045		

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: July 6, 2016

SIGNED: _____

Kathi Palacios
Kathi Palacios
Declarant